

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY TILLMAN, No C-10-4617 VRW (PR)
Plaintiff/Petitioner,
v ORDER OF TRANSFER
BOARD OF PRISON TERMS,
Defendant/Respondent.

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Plaintiff/Petitioner, presently incarcerated at Corcoran State Prison in Kings County, California, has filed a pro se civil rights action under 42 USC § 1983. Doc #1. Plaintiff challenges the denial of parole, which addresses the execution of his sentence, rather than the validity of his conviction. Rather than proceeding by way of a civil rights complaint, to challenge the execution of his sentence plaintiff must proceed by filing a petition for a writ of habeas corpus. See 28 USC 2254. Further, as explained below, he must file in the Eastern District of California where venue is proper.

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Venue for habeas cases involving state prisoners is proper in either the district of confinement or the district of conviction. See 28 USC § 2241(d). The district of confinement is the preferable forum to review the execution of a sentence. Habeas LR 2254-3(a)(2); Dunne v Henman, 875 F2d 244, 249 (9th Cir 1989).

Because the county of confinement, ie, Kings, lies within the venue of the Eastern District of California, pursuant to 28 USC § 1406(a) and Habeas Local Rule 2254-3(b)(2) and in the interest of justice, the Court orders this Petition TRANSFERRED to the United States District Court for the Eastern District of California.

The clerk shall transfer this matter and terminate all pending motions as moot.

IT IS SO ORDERED.



VAUGHN R WALKER
United States District Chief Judge